

REMARKS

This Amendment, submitted in response to the Office Action dated May 14, 2008, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-14 and 17-19 are all the claims pending in the application.

I. Objection to Specification

The Examiner states that the specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Examiner asserts that the phrase “computer readable medium” is not disclosed in the specification. Applicant amended the specification as suggested by the Examiner. Therefore, Applicant requests that the objection to the specification be withdrawn.

II. 35 U.S.C. § 101

The Examiner indicates that, with respect to claims 8-10, the Examiner interprets the “computer readable medium” as being represented by a tangible storage medium and therefore complies with 35 U.S.C. § 101. The Examiner indicated that this statement is added to clarify in the record that the 35 U.S.C. § 101 was considered by the Examiner.

III. Claim Rejections under 35 U.S.C. § 101

Claims 5-7 stand rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Specifically, the Examiner asserts that the system disclosed in claims 5-7 could be implemented only as software, therefore, the content of the claims could disclose software per se. The Examiner indicates that in order to overcome the rejection, the Applicant needs to clearly identify that the data processor is indeed at the very least

a combination of hardware and software or incorporate other hardware elements present in the original specification so that the system of claims 5-7 is a combination of hardware and software.

In the specification, the terms “a streamer” (singular form and corresponding to a data processing part) and “streamers” (plural form and corresponding to data processing parts) are used (see Fig. 6 and paragraphs [0004], [0019], [0020] and [0021]). Generally, a streamer is a kind of device (see http://en.wikipedia.org/wiki/Tape_drive) and singular and plural instances thereof appear in the specification. Applicant submits that the systems of claims 5-7 are clearly implemented by at least a combination of hardware and software and not merely software. For example, a “data processor” includes “hardware.”

Therefore, Applicant requests that the 35 U.S.C. § 101 rejection be withdrawn.

Further, if the Examiner requires further clarification with respect to the claim language, please contact the Applicant’s undersigned representative.

IV. Claim Rejections under 35 U.S.C. § 102

Claims 1-10, 18 and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Aybay et al. (U.S. Patent No. 6,044,061; hereinafter “Aybay”).

Claim 1

Claim 1 is directed to a method for processing a multiplicity of data update requests made by a customer. Aybay is directed to the scheduling of variable-size data packets in an input buffered multipoint switch. Specifically, Aybay is directed to, for example, networks for the transfer of voice, video and data between network devices. See Background of the Invention. Aybay is merely concerned with the transfer of data. Aybay is not directed to the processing of data update requests. For at least this reason, Aybay does not anticipate claim 1.

Claim 1 further recites:

“grouping all of said data update requests which is followed by updating of the corresponding data into a predetermined plurality of blocks for execution by a data processor, the data update requests within each of said blocks and from one of said blocks to a next one of said blocks being arranged in an order that said data update requests need to be executed to yield a proper data result, each of said blocks having approximately a same capacity for said data update requests, said capacity corresponding to a number of said data update requests which said data processor is adapted to efficiently process in order before processing said data update requests in the next one of said blocks; and

then said data processor processing said data update requests within said one block in said order, and then said data processor processing said data update requests within said next block in said order.”

Aybay discloses in Fig. 15, a multilevel in-parallel arbitration process. L0 is designated high packet priority and channel 0 has the highest round-robin priority. In the first clock phase, the four requests, L0-L3, for CH0 are arbitrated. See col. 13, lines 1-10. Further, Aybay discloses that level-specific sub-scheduling units utilize a round-robin arbitration scheme to guarantee fairness from requests of the same priority level. Under the round-robin scheme, channel 0 is initially designated as having the highest round-robin channel priority and channel 15 is designated as having the lowest round-robin priority. Once the channel with the highest round-robin priority receives a grant, the highest round-robin priority designation is rotated to the next input channel with the pending request. See col. 10, lines 29-50.

However, contrary to the Examiner's assertion, Aybay is not at all concerned with data update requests and the processing of data update requests in blocks of a determined order. Specifically, there is no teaching or suggestion of grouping all of the data update requests which is followed by updating of the corresponding data into a predetermined plurality of blocks for

execution by a data processor. Aybay merely discloses grouping requests according to a first in, first out priority scheme. There is no teaching or suggestion that data update requests are grouped into a predetermined plurality of blocks for execution by a data processor.

Further, there is no teaching or suggestion that the data update requests within each of the blocks and from one of the blocks to a next one of the blocks is arranged in an order that said data update requests need to be executed to yield a proper data result. Specifically, Aybay is not concerned with data update requests or the execution of data update request to yield a proper data result. Aybay merely discloses the processing of requests according to time, such as first in, first out.

Moreover, there is no teaching or suggestion in Aybay that each block (e.g., Fig. 15, RQ_CH0 which appears to be cited by the Examiner for teaching the claimed block) has approximately a same capacity for data update requests.

For at least the above reasons, claim 1 and its dependent claims should be deemed allowable. To the extent independent claims 5 and 8 recite similar subject matter, claims 5 and 8 and their dependent claims should be deemed allowable for at least the same reasons.

Claim 2

Claim 2 recites “wherein said order is an order in which said data update requests were made.” The Examiner asserts that col. 3, lines 1-9 teaches this aspect of the claim. The aspect of Aybay cited by the Examiner discloses arbitration among the totality of requests can be executed on a priority basis such that grants are issued in response to requests in a sequence from the lowest priority request to the highest priority request.

Therefore, in Aybay, the requests are processed in order of priority. The requests are not arranged in an order in which the data update requests were made as claimed. Therefore, claim 2

should be deemed allowable. To the extent claims 6, 9, and 12 recite similar elements, claims 6, 9 and 12 should be deemed allowable for at least the same reasons.

V. Claim Rejections under 35 U.S.C. § 103

Claims 11-14 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Aybay et al. (U.S. Patent No. 6,044,061) in view of *In re Harza*, 274F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960).

To the extent claim 11 recites subject matter similar to claim 1, claim 11 and its dependent claims should be deemed allowable for at least the same reasons. Further, claim 17 should be deemed allowable by virtue of its dependency to claim 1 for at least the reasons set forth above.

In rejecting claim 11, the Examiner concedes that Aybay does not teach or suggest the claimed second data update requests, however, the Examiner asserts that it would be obvious to duplicate the request collecting step. The Examiner reasons that the mere duplication of essential working steps involves only routine skill in the art, citing *In re Harza*.

However, contrary to the Examiner's assertions, Applicant submits that Applicant's claim is not merely directed to the duplication of parts. Specifically, claim 11 discloses the relationship between a group of first data update requests and a group of second data update requests. Specifically, Applicant's claim clearly distinguishes the processing of a first group of data update requests from a second group of data update requests. The first group of data update requests are not being processed twice or merely duplicated, as suggested by the Examiner.

For at least the above reasons, claim 11 and its dependent claims should be deemed allowable.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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